THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.23917 of 2006

Date: 27.02.2007

Between:

B.V.Vardhana.

....Petitioner

And

Government of Andhra Pradesh, rep. By its Secretary, LAW (La & J Courts, A2) Department, Secretariat, Hyderabad and others..

....Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.23917 of 2006

O R D E R:

The petitioner was appointed as a Special Public Prosecutor, under sub-Section (8) of Section 24 of Cr.P.C. read with relevant Clauses of the Instructions contained in G.O.Ms.No.187, Law (L) Department, dated 06.02.2000 (for short 'the Instructions'), to deal with the cases relating to Commercial Benefit Corporation, Madanapalle, Chittoor District, by the first respondent, through their orders in G.O.Rt.No.317, Law (La & J Courts A2) Department, dated 16.02.2004. The appointment of the petitioner was to be in force for a period of three years or till termination of the appointment, whichever is earlier.

The first respondent terminated the services of the petitioner, through their orders in G.O.Rt.No.460, Law (La & J Courts A2) Department, dated 03.04.2006. In his place, the Public Prosecutor for the Court of District and Sessions Judge, Chittoor, 4th respondent herein, was appointed. The petitioner challenges the orders of

termination of his appointment. He contends that the first respondent did not issue any notice, before terminating the services, nor the procedure prescribed under the Instructions was followed. It is also alleged that there did not exist any factual or legal basis for the orders of termination.

The third respondent filed a counter affidavit on behalf of respondents 1 to 3. It is stated that there are only eight cases, which are to be dealt with by the petitioner, and that the pendency of criminal cases before the District and Sessions Court, Chittoor, is only 280, including those, for which the petitioner was appointed, and in that view of the mater, the Government has decided to terminate the appointment of the petitioner. Another ground urged by the respondents is that the petitioner left the Country, without informing the District Collector or seeking permission at any point of time. The third respondent also stated that the prescribed procedure has been followed.

Heard the learned counsel for the petitioner and the learned Government Pleader for Home.

The appointment of the petitioner as Special Public Prosecutor was made under sub-Section (8) of Section 24 of Cr.P.C. The Government has also framed a set of

instructions, which provides guidance in the matter of appointment of Public Prosecutors and Law Officers. The petitioner was appointed for a period of three years from the date of assumption of charge. Admittedly, the period of three years did not expire. It was always open for the first respondent to terminate the services, duly following the procedure prescribed by law. G.O.Rt.No.460, dated 03.04.2006, is silent as to the reasons, on account of which the appointment of the petitioner was terminated. The Instructions mandate that if the services of a Public Prosecutor or a Law Officer are to be terminated, before expiry of the tenure, notice of one month must be issued, and in lieu thereof, honorarium for one month must be paid. Even in the absence of such Instructions, issuance of notice before terminating the appointment is mandatory, as a compliance with the principles of natural justice.

The respondents may have valid reasons for discontinuing the petitioner as Special Public Prosecutor. However, unless such reasons are informed to the petitioner, through a notice, and his explanation is called for, an abrupt termination cannot be countenanced in law. On this ground alone, the impugned order is liable to be set aside. However, having regard to the fact that the Instructions provide for payment of honorarium for a period of one month, in case of midstream termination, the

interests of the petitioner can be protected, by directing such payment.

For the foregoing reasons, the Writ Petition is partly allowed, directing that the first respondent shall pay honorarium to the petitioner, for a period of one month, within six (6) weeks from the date of receipt of a copy of this order. If this direction is not complied with, it shall be open to the petitioner to approach this Court with necessary application and the Court would consider the feasibility of directing reinstatement of the petitioner. There shall be no order as to costs.

_____

27.02.2007

JSU